

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

EHOSTAR SATELLITE LLC, a Colorado corporation; EHOSTAR TECHNOLOGIES CORPORATION, a Texas corporation, and NAGRASTAR LLC, a Colorado corporation,

Plaintiffs,

v.

FINISAR CORPORATION, a Delaware corporation,

Defendant.

Case No. 06-0425-JJF

DECLARATION OF HAROLD J. MCELHINNY

HAROLD J. MCELHINNY, acknowledging that this declaration is made under penalty of perjury, states upon personal knowledge, information and belief that the following facts are true and correct.

1. I am a member of the Bar of the State of California and a partner with Morrison & Foerster LLP, counsel for Plaintiffs EchoStar Satellite LLC, EchoStar Technologies Corporation and Nagrastar LLC (collectively, "EchoStar").

2. I am informed and believe that after EchoStar filed its complaint against Finisar on July 10, 2006, Finisar contacted EchoStar to propose that the parties meet to discuss a settlement of their dispute.

3. I had two telephone conversations with Mr. Kenworthy on August 3, 2006. During these conversations, Mr. Kenworthy proposed that the parties either agree to stay litigation on EchoStar's complaint against Finisar pending review of the DirecTV verdict by the Court of

Appeals for the Federal Circuit or that EchoStar agree to dismiss its complaint without prejudice to allow the parties to discuss settlement outside of litigation.

4. Mr. Kenworthy further stated that Finisar would not agree to toll the accrual of damages, if any, against EchoStar during the pendency of settlement discussions.

DATED: November 6, 2006


Harold J. McElhinny

CERTIFICATE OF SERVICE

I, Josy W. Ingersoll, Esquire, hereby certify that on November 7, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

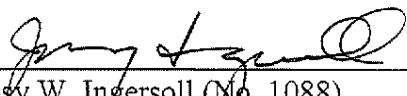
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I further certify that on November 7, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

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